

AMENDED IN ASSEMBLY JUNE 23, 2003

AMENDED IN ASSEMBLY JUNE 12, 2003

AMENDED IN SENATE APRIL 21, 2003

SENATE BILL

No. 360

Introduced by Senator Figueroa

(Coauthor: Senator Vincent)

(Coauthors: Assembly Members Correa and Nation)

February 19, 2003

An act to amend Sections 125.9, 7303.1, 7309, 7313, 7317, 7319.5, 7321, 7321.5, 7324, 7326, 7330, 7332, 7333, 7334, 7335, 7336, 7337, 7337.5, 7338, 7340, 7341, 7342, 7344, 7353, 7354, 7355, 7356, 7357, 7359, 7362, 7362.1, 7362.2, 7362.3, 7364, 7365, 7366, 7367, 7389, 7395.1, 7396, 7400, 7401, 7403, 7404, 7405, 7406, 7407, 7408, 7409, 7410, 7414.1, 7414.3, 7414.4, 7414.6, 7415, 7421, and 7422 of, *to amend and repeal Sections 7390, 7391, 7392, 7393, 7394, and 7395 of*, to add Sections 7303.2, and 7403.5 to, to repeal Sections 7331.5, ~~7340.5, 7390, 7391, 7392, 7393, 7394, 7395, 7416, and 7423.5 of, and~~ 7340.5, 7416, and 7423.5 of, *and* to repeal and add Sections 7331 and 7423 to, the Business and Professions Code, relating to business and professions.

LEGISLATIVE COUNSEL'S DIGEST

SB 360, as amended, Figueroa. Boards, bureaus, and commissions.

(1) Existing law authorizes specified boards, bureaus, and commissions within the Department of Consumer Affairs, the Osteopathic Medical Board of California, and the State Board of Chiropractic Examiners to establish regulations whereby the board, bureau, or commission, in specified circumstances, may impose an

administrative fine not exceeding \$2,500 upon its licensees. Existing law requires these administrative fines to be deposited into the special fund of the appropriate board, bureau, or commission.

This bill would increase the amount of this administrative fine to \$5,000. These administrative fines would be deposited into a special fund of the particular board, bureau, or commission.

(2) Existing law, the Barbering and Cosmetology Act, establishes the State Board of Barbering and Cosmetology in the Department of Consumer Affairs consisting of 9 members. Existing law requires the board, subject to the approval of the Director of Consumer Affairs, to appoint an executive officer to perform the duties delegated by the board.

Existing law requires that a person who fails to qualify for admission to an examination because the person's practice does not fulfill specified requirements be given credit for study and training obtained that is substantially the same as the study and training required by the state.

This bill would repeal this provision and would instead authorize the board to grant a license to an applicant who submits a completed application with the necessary fee, proof of a valid license issued by another state, and proof that the applicant has not been disciplined by another state.

(3) Existing law requires that a cosmetology or barbering instructor training course shall consist of not less than 600 hours of practical training and technical experience. Existing law authorizes an individual to take the barbering or cosmetology instructor's examination if that person has, among other things, submitted an application and paid the appropriate fee to the board, completed the 12th grade, and has a valid license to practice. Existing law requires a licensed instructor to complete 30 clock hours of continuing education. Existing law excludes an instructor from complying with continuing education requirements if his or her license is inactive.

This bill would repeal these provisions *on January 1, 2005*.

(4) Existing law specifies the licensing fees for cosmetologists, estheticians, manicurists, and other individuals licensed by the act.

This bill would require that the application fee and examination fee for individuals licensed by this act shall be the actual cost to the board for developing, purchasing, grading, and administering the appropriate examination. The bill would authorize the director to immediately close any establishment which, upon inspection, poses an immediate threat



to public health and safety. The bill would require, not later than September 1, 2005, the board to conduct various studies, some in conjunction with the Office of Examination Resources and some in coordination with Department of Industrial Relations, and report the results to the Legislature and the Joint Legislative Sunset Review Committee. The bill would delete obsolete provisions and make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 125.9 of the Business and Professions
2 Code is amended to read:
3 125.9. (a) Except with respect to persons regulated under
4 Chapter 11 (commencing with Section 7500), and Chapter 11.6
5 (commencing with Section 7590) of Division 3, any board,
6 bureau, or commission within the department, the board created by
7 the Chiropractic Initiative Act, and the Osteopathic Medical Board
8 of California, may establish, by regulation, a system for the
9 issuance to a licensee of a citation which may contain an order of
10 abatement or an order to pay an administrative fine assessed by the
11 board, bureau, or commission where the licensee is in violation of
12 the applicable licensing act or any regulation adopted pursuant
13 thereto.
14 (b) The system shall contain the following provisions:
15 (1) Citations shall be in writing and shall describe with
16 particularity the nature of the violation, including specific
17 reference to the provision of law determined to have been violated.
18 (2) Whenever appropriate, the citation shall contain an order of
19 abatement fixing a reasonable time for abatement of the violation.
20 (3) In no event shall the administrative fine assessed by the
21 board, bureau, or commission exceed five thousand dollars
22 (\$5,000) for each inspection or each investigation made with
23 respect to the violation, or five thousand dollars (\$5,000) for each
24 violation or count if the violation involves fraudulent billing
25 submitted to an insurance company, the Medi-Cal program, or
26 Medicare. In assessing a fine, the board, bureau, or commission
27 shall give due consideration to the appropriateness of the amount
28 of the fine with respect to factors such as the gravity of the

1 violation, the good faith of the licensee, and the history of previous
2 violations.

3 (4) A citation or fine assessment issued pursuant to a citation
4 shall inform the licensee that if he or she desires a hearing to
5 contest the finding of a violation, that hearing shall be requested
6 by written notice to the board, bureau, or commission within 30
7 days of the date of issuance of the citation or assessment. If a
8 hearing is not requested pursuant to this section, payment of any
9 fine shall not constitute an admission of the violation charged.
10 Hearings shall be held pursuant to Chapter 5 (commencing with
11 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
12 Code.

13 (5) Failure of a licensee to pay a fine within 30 days of the date
14 of assessment, unless the citation is being appealed, may result in
15 disciplinary action being taken by the board, bureau, or
16 commission. Where a citation is not contested and a fine is not
17 paid, the full amount of the assessed fine shall be added to the fee
18 for renewal of the license. A license shall not be renewed without
19 payment of the renewal fee and fine.

20 (c) The system may contain the following provisions:

21 (1) A citation may be issued without the assessment of an
22 administrative fine.

23 (2) Assessment of administrative fines may be limited to only
24 particular violations of the applicable licensing act.

25 (d) Notwithstanding any other provision of law, if a fine is paid
26 to satisfy an assessment based on the finding of a violation,
27 payment of the fine shall be represented as satisfactory resolution
28 of the matter for purposes of public disclosure.

29 (e) Administrative fines collected pursuant to this section shall
30 be deposited in the special fund of the particular board, bureau, or
31 commission.

32 SEC. 2. Section 7303.1 of the Business and Professions Code
33 is amended to read:

34 7303.1. Protection of the public shall be the highest priority
35 for the Board of Barbering and Cosmetology in exercising its
36 licensing, regulatory, and disciplinary functions. Whenever the
37 protection of the public is inconsistent with other interests sought
38 to be promoted, the protection of the public shall be paramount.

39 SEC. 3. Section 7303.2 is added to the Business and
40 Professions Code, to read:



1 7303.2. The board shall conduct the following studies and
2 reviews, and shall report its findings and recommendations to the
3 department and the Joint Legislative Sunset Review Committee no
4 later than September 1, 2005:

5 (a) The board, pursuant to Section 139 and in conjunction with
6 the Office of Examination Resources of the department, shall
7 review the 1600-hour training requirement for cosmetologists.

8 (b) The board, in conjunction with the Office of Examination
9 Resources of the department, shall evaluate the equivalency of a
10 national exam.

11 (c) The board shall conduct a study to assess the costs and
12 benefits associated with requiring all applicants to submit
13 fingerprint cards for background investigations.

14 (d) The board, in coordination with the Department of
15 Industrial Relations, shall review all components of the
16 apprenticeship program, including, but not limited to, the
17 following:

18 (1) Apprenticeship curriculum requirements.

19 (2) The standards for the pre-apprentice trainers, program
20 sponsors, trainers, and placement establishments. The board shall
21 pay particular attention to ways to eliminate duplicative
22 regulations.

23 (e) The board shall review all components of the externship
24 program. In addition to structural changes, the board shall address
25 the following:

26 (1) Whether the program should be eliminated.

27 (2) Whether the program should be available to all students, not
28 just cosmetology students attending private schools.

29 (3) Whether the students should be paid.

30 (f) The board shall assess the costs and benefits associated with
31 same day licensing. If the board determines that the benefits of
32 same day licensing outweigh the costs, the board shall
33 immediately plan and implement safety measures to protect site
34 staff and undispersed licenses.

35 (g) The board, in conjunction with the Office of Examination
36 Resources of the department, shall assess the validity of aggregate
37 scoring for board applicants.

38 SEC. 4. Section 7309 of the Business and Professions Code
39 is amended to read:

1 7309. The board shall establish a principal office, and may
2 establish branch offices and examination facilities in the state as
3 may be deemed necessary for the board to conduct its business.

4 SEC. 5. Section 7313 of the Business and Professions Code
5 is amended to read:

6 7313. (a) (1) To ensure compliance with the laws and
7 regulations of this chapter, the board's executive officer and
8 authorized representatives shall, except as provided by Section
9 159.5, have access to, and shall inspect, any establishment or
10 mobile unit during business hours or at any time in which
11 barbering, cosmetology, or electrolysis are being performed. It is
12 the intent of the Legislature that inspections be conducted on
13 Saturdays and Sundays as well as weekdays, if collective
14 bargaining agreements and civil service provisions permit.

15 (2) The board shall maintain a program of random and targeted
16 inspections of establishments to ensure compliance with
17 applicable laws relating to the public health and safety and the
18 conduct and operation of establishments. The board or its
19 authorized representatives shall inspect establishments to
20 reasonably determine compliance levels and to identify market
21 conditions that require targeted enforcement. The board shall not
22 reduce the number of employees assigned to perform random
23 inspections, targeted inspections, and investigations relating to
24 field operations below the level funded by the annual Budget Act
25 and described in supporting budget documents, and shall not
26 redirect funds or personnel-years allocated to those inspection and
27 investigation purposes to other purposes.

28 (b) To ensure compliance with health and safety requirements
29 adopted by the board, the executive officer and authorized
30 representatives shall, except as provided in Section 159.5, have
31 access to, and shall inspect the premises of, all schools in which the
32 practice of barbering, cosmetology, or electrolysis is performed on
33 the public. Notices of violation shall be issued to schools for
34 violations of regulations governing conditions related to the health
35 and safety of patrons. Each notice of violation shall specify the
36 section violated and a timespan within which the violation shall be
37 corrected. A copy of the notice of violation shall be provided to the
38 Bureau for Private Postsecondary and Vocational Education.

39 (c) With prior written authorization from the board or its
40 executive officer, any member of the board may enter and visit, in

1 his or her capacity as a board member, any establishment, during
2 business hours or at any time when barbering, cosmetology, or
3 electrolysis is being performed. The visitation by a board member
4 shall be for the purpose of conducting official board business, but
5 shall not be used as a basis for any licensing disciplinary action by
6 the board.

7 SEC. 6. Section 7317 of the Business and Professions Code
8 is amended to read:

9 7317. Except as provided in this article, it is unlawful for any
10 person, firm, or corporation to engage in barbering, cosmetology,
11 or electrolysis for compensation without a valid, unexpired license
12 issued by the board, or in an establishment or mobile unit other
13 than one licensed by the board, or conduct or operate an
14 establishment, or any other place of business in which barbering,
15 cosmetology, or electrolysis is practiced unless licensed under this
16 chapter. Persons licensed under this chapter shall limit their
17 practice and services rendered to the public to only those areas for
18 which they are licensed. Any violation of this section is a
19 misdemeanor.

20 SEC. 7. Section 7319.5 of the Business and Professions Code
21 is amended to read:

22 7319.5. Students engaged in performing services on the
23 public while enrolled in a school approved by the board shall not
24 be required to be licensed under this chapter if they perform those
25 services at the approved school in which they are enrolled.

26 SEC. 8. Section 7321 of the Business and Professions Code
27 is amended to read:

28 7321. The board shall admit to examination for a license as a
29 cosmetologist to practice cosmetology any person who has made
30 application to the board in proper form, paid the fee required by
31 this chapter, and is qualified as follows:

32 (a) Is not less than 17 years of age.

33 (b) Has completed the 10th grade in the public schools of this
34 state or its equivalent.

35 (c) Is not subject to denial pursuant to Section 480.

36 (d) Has done any of the following:

37 (1) Completed a course in cosmetology from a school approved
38 by the board.

39 (2) Practiced cosmetology as defined in this chapter outside of
40 this state for a period of time equivalent to the study and training

1 of a qualified person who has completed a course in cosmetology
2 from a school the curriculum of which complied with
3 requirements adopted by the board. Each three months of practice
4 shall be deemed the equivalent of 100 hours of training for
5 qualification under paragraph (1) of this subdivision.

6 (3) Holds a license as a barber in this state and has completed
7 a cosmetology crossover course in a school approved by the board.

8 (4) Completed a barbering course in a school approved by the
9 board and has completed a cosmetology crossover course in a
10 school approved by the board.

11 (5) Completed the apprenticeship program in cosmetology
12 specified in Article 4 (commencing with Section 7332).

13 SEC. 9. Section 7321.5 of the Business and Professions Code
14 is amended to read:

15 7321.5. The board shall admit to examination for a license as
16 a barber to practice barbering, any person who has made
17 application to the board in proper form, paid the fee required by
18 this chapter, and is qualified as follows:

19 (a) Is not less than 17 years of age.

20 (b) Has completed the 10th grade in the public schools of this
21 state or its equivalent.

22 (c) Is not subject to denial pursuant to Section 480.

23 (d) Has done any of the following:

24 (1) Completed a course in barbering from a school approved by
25 the board.

26 (2) Completed an apprenticeship program in barbering
27 approved by the board as conducted under the provisions of the
28 Shelley-Maloney Apprentice Labor Standards Act of 1939,
29 Chapter 4 (commencing with Section 3070) of Division 3 of the
30 Labor Code.

31 (3) Practiced barbering as defined in this chapter outside of this
32 state for a period of time equivalent to the study and training of a
33 qualified person who has completed a course in barbering from a
34 school the curriculum of which complied with requirements
35 adopted by the board. Each three months of practice shall be
36 deemed the equivalent of 100 hours of training for qualification
37 under paragraph (1).

38 (4) Holds a license as a cosmetologist in this state and has
39 completed a barber crossover course in a school approved by the
40 board.

(5) Completed a cosmetology course in a school approved by the board and has completed a barber crossover course in a school approved by the board.

(6) Completed comparable military training as documented by submission of Verification of Military Experience and Training (V-MET) records.

SEC. 10. Section 7324 of the Business and Professions Code is amended to read:

7324. The board shall admit to examination for a license as an esthetician to practice skin care, any person who has made application to the board in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 10th grade in the public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course in skin care from a school approved by the board.

(2) Practiced skin care, as defined in this chapter, outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in skin care from a school the curriculum of which complied with requirements adopted by the board. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1).

(3) Completed the apprenticeship program in skin care specified in Article 4 (commencing with Section 7332).

SEC. 11. Section 7326 of the Business and Professions Code is amended to read:

7326. The board shall admit to examination for a license as a manicurist to practice nail care, any person who has made application to the board in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 10th grade in the public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

1 (1) Completed a course in nail care from a school approved by
2 the board.

3 (2) Practiced nail care, as defined in this chapter, outside of this
4 state for a period of time equivalent to the study and training of a
5 qualified person who has completed a course in nail care from a
6 school the curriculum of which complied with requirements
7 adopted by the board. Each three months of practice shall be
8 deemed the equivalent of 100 hours of training for qualification
9 under paragraph (1).

10 (3) Completed the apprenticeship program in nail care
11 specified in Article 4 (commencing with Section 7332).

12 SEC. 12. Section 7330 of the Business and Professions Code
13 is amended to read:

14 7330. The board shall admit to examination for a license as an
15 electrologist to practice electrolysis, any person who has made
16 application to the board in proper form, paid the fee required by
17 this chapter, and is qualified as follows:

18 (a) Is not less than 17 years of age.

19 (b) Has completed the 12th grade or an accredited senior high
20 school course of study in public schools of this state or its
21 equivalent.

22 (c) Is not subject to denial pursuant to Section 480.

23 (d) Has done any of the following:

24 (1) Completed a course of training in electrolysis from a school
25 approved by the board.

26 (2) Practiced electrolysis, as defined in this chapter, for a period
27 of 18 months outside of this state within the time equivalent to the
28 study and training of a qualified person who has completed a
29 course in electrolysis from a school the curriculum of which
30 complied with requirements adopted by the board. Each three
31 months of practice shall be deemed the equivalent of 100 hours of
32 training for qualification under paragraph (1).

33 (3) Completed the apprenticeship program in electrology
34 specified in Article 4 (commencing with Section 7332).

35 SEC. 13. Section 7331 of the Business and Professions Code
36 is repealed.

37 SEC. 14. Section 7331 is added to the Business and
38 Professions Code, to read:

39 7331. The board may grant a license to practice to an applicant
40 if the applicant submits all of the following to the board:



1 (a) A completed application form and all fees required by the
2 board.

3 (b) Proof of a current license issued by another state to practice
4 that is not revoked or suspended or otherwise restricted.

5 (c) Proof that the applicant has not been subject to disciplinary
6 action by any state in which he or she is or has been previously
7 licensed to practice. If the applicant has been subject to
8 disciplinary action, the board shall review that action to determine
9 if it warrants refusal to issue a license to the applicant.

10 (d) Any other information as specified by the board to the
11 extent it is required of applicants for licensure by examination
12 under this article.

13 SEC. 15. Section 7331.5 of the Business and Professions
14 Code is repealed.

15 SEC. 16. Section 7332 of the Business and Professions Code
16 is amended to read:

17 7332. An apprentice is any person who is licensed by the
18 board to engage in learning or acquiring a knowledge of barbering,
19 cosmetology, skin care, nail care, or electrology, in a licensed
20 establishment under the supervision of a licensee approved by the
21 board.

22 SEC. 17. Section 7333 of the Business and Professions Code
23 is amended to read:

24 7333. The apprentice training program shall be conducted in
25 compliance with the Shelley-Maloney Apprentice Labor
26 Standards Act of 1939, Chapter 4 (commencing with Section
27 3070) of Division 3 of the Labor Code, according to
28 apprenticeship standards approved by the administrator of
29 apprenticeship. A copy of the act shall be maintained on file with
30 the board.

31 SEC. 18. Section 7334 of the Business and Professions Code
32 is amended to read:

33 7334. (a) The board may license as an apprentice in
34 barbering, cosmetology, skin care, or nail care any person who has
35 made application to the board upon the proper form, has paid the
36 fee required by this chapter, and who is qualified as follows:

37 (1) Is over 16 years of age.

38 (2) Has completed the 10th grade in the public schools of this
39 state or its equivalent.

40 (3) Is not subject to denial pursuant to Section 480.

(4) Has submitted evidence acceptable to the board that any training the apprentice is required by law to obtain shall be conducted in a licensed establishment and under the supervision of a licensee approved by the board.

(b) The board may license as an apprentice in electrolysis any person who has made application to the board upon the proper form, has paid the fee required by this chapter, and who is qualified as follows:

(1) Is not less than 17 years of age.

(2) Has completed the 12th grade or an accredited senior high school course of study in schools of this state or its equivalent.

(3) Is not subject to denial pursuant to Section 480.

(4) Has submitted evidence acceptable to the board that any training the apprentice is required by law to obtain shall be conducted in a licensed establishment and under the supervision of a licensee approved by the board.

(c) All persons making application as an apprentice in barbering shall also complete a minimum of 39 hours of preapprentice training in a facility approved by the board prior to serving the general public.

(d) All persons making application as an apprentice in cosmetology, skin care, nail care, or electrology shall also complete minimum preapprentice training for the length of time established by the board in a facility approved by the board prior to serving the general public.

(e) Apprentices may only perform services on the general public for which they have received technical training.

(f) Apprentices shall be required to obtain at least the minimum hours of technical instruction and minimum number of practical operations for each subject as specified in board regulations for courses taught in schools approved by the board, in accordance with Sections 3074 and 3078 of the Labor Code.

SEC. 19. Section 7335 of the Business and Professions Code is amended to read:

7335. (a) The license of an apprentice shall expire two years from the date the license was issued, or on the date the apprentice is issued a license following the license examination, or if the apprentice fails the license examination twice, on the date the results of the second examination are issued, whichever occurs first.

1 (b) No person holding a license as an apprentice shall work
2 more than three months after completing the required training
3 without applying for and taking the examination for licensure.

4 (c) The board may extend the two-year or three-month period
5 described in subdivisions (a) and (b) upon a showing of good cause
6 which shall include, but not be limited to, delays in applying for
7 and taking the examination caused by the illness of, or accident to,
8 the apprentice, or service in the Armed Forces of the United States.

9 SEC. 20. Section 7336 of the Business and Professions Code
10 is amended to read:

11 7336. An apprentice may do any or all of the acts for which
12 he or she is licensed only in the licensed establishment and under
13 the supervision and employment of a licensee approved by the
14 board.

15 SEC. 21. Section 7337 of the Business and Professions Code
16 is amended to read:

17 7337. Every application for admission to examination and
18 licensure shall be in writing, on forms prepared and furnished by
19 the board.

20 Each application shall be accompanied by the required fee, and
21 shall contain proof of the qualifications of the applicant for
22 examination and licensure. It shall be verified by the oath of the
23 applicant. Every applicant shall, as a condition of admittance to the
24 examination facility, present satisfactory proof of identification.
25 Satisfactory proof of identification shall be in the form of a valid,
26 unexpired driver's license or identification card, containing the
27 photograph of the person to whom it was issued, issued by any
28 state, federal, or other government entity.

29 SEC. 22. Section 7337.5 of the Business and Professions
30 Code is amended to read:

31 7337.5. (a) The board shall adopt regulations providing for
32 the submittal of applications for admission to examination of
33 students of approved cosmetology, electrology, or barbering
34 schools who have completed at least 75 percent of the required
35 course clock hours and curriculum requirements (60 percent for
36 students of the manicurist course), or any person licensed as an
37 apprentice in barbering, cosmetology, skin care, or nail care who
38 has completed at least 75 percent of the required apprenticeship
39 training hours. The regulations shall include provisions that ensure

1 that all proof of qualifications of the applicant is received by the
2 board before the applicant is examined.

3 (b) An application for examination submitted by a student of an
4 approved cosmetology, electrology, or barbering school under this
5 section shall be known as a “school preapplication” and an
6 additional preapplication fee may be required.

7 (c) An application for examination submitted by a person
8 licensed as an apprentice in barbering, cosmetology, skin care, or
9 nail care shall be known as an “apprenticeship preapplication”
10 and an additional fee may be required.

11 (d) The board shall administer the licensing examination not
12 later than 10 working days after graduation from an approved
13 cosmetology, electrology, or barbering school to students who
14 have submitted an application for admission for examination
15 under the preapplication procedure, or not later than 10 working
16 days after completion of an approved barbering, cosmetology, skin
17 care, or nail care apprenticeship program for a person licensed as
18 an apprentice.

19 SEC. 23. Section 7338 of the Business and Professions Code
20 is amended to read:

21 7338. The examination of applicants for a license shall
22 include both a practical demonstration and a written test and shall
23 embrace the subjects typically taught in a program approved by the
24 board.

25 The examination shall not be confined to any particular system
26 or method. It shall be consistent in both practical and technical
27 requirements, and of sufficient thoroughness to satisfy the board
28 as to the applicant’s skill in, and knowledge of, the practice of the
29 occupation or occupations for which a license is sought.

30 In the conduct and grading of examinations, practical
31 demonstrations shall prevail over written tests.

32 The scope of examinations shall be consistent with the
33 definition of the activities licensed under this chapter, and shall be
34 as the board, by regulation, may require to protect the health and
35 safety of consumers of the services provided by licensees.

36 The board’s examinations shall be limited to clearly job-related
37 questions, activities, and practical services. Examinations shall
38 also include written tests in antisepsis, disinfection, sanitation, the
39 use of mechanical apparatus and electricity as applicable to the
40 practice of barbering, cosmetology, or electrolysis. They may

1 include other demonstrations and tests as the board, in its
2 discretion, may require.

3 SEC. 24. Section 7340 of the Business and Professions Code
4 is amended to read:

5 7340. All examinations shall be prepared by or under the
6 direction of the board. The board shall establish standards and
7 procedures governing administration and grading and shall
8 exercise supervision as may be necessary to assure compliance
9 therewith.

10 SEC. 25. Section 7340.5 of the Business and Professions
11 Code is repealed.

12 SEC. 26. Section 7341 of the Business and Professions Code
13 is amended to read:

14 7341. The board shall mail or deliver to every person failing
15 any examination provided for in this chapter the total grade
16 received on the examination.

17 An unsuccessful applicant for licensure, after taking an
18 examination and within 90 days after the results thereof have been
19 declared, shall have the right to inspect his or her examination
20 paper in the city in which the examination was taken.

21 SEC. 27. Section 7342 of the Business and Professions Code
22 is amended to read:

23 7342. Licenses in the practice of the occupation for which the
24 license was sought shall be issued by the board to any applicant
25 who satisfactorily passes an examination, who possesses the other
26 qualifications required by law and who has remitted the license fee
27 required by this chapter. The license shall entitle the holder to
28 engage in the practice of that occupation in a licensed
29 establishment. The license shall be issued by the board on the same
30 day that the applicant satisfactorily passes the examination.

31 SEC. 28. Section 7344 of the Business and Professions Code
32 is amended to read:

33 7344. The board may contract or otherwise arrange for
34 reasonably required physical accommodations and facilities to
35 conduct examinations.

36 SEC. 29. Section 7353 of the Business and Professions Code
37 is amended to read:

38 7353. (a) (1) Within 90 days after issuance of the
39 establishment license, the board or its agents or assistants shall
40 inspect the establishment for compliance with the applicable

1 requirements of this chapter and the applicable rules and
2 regulations of the board adopted pursuant to this chapter.

3 (2) The board may inspect the establishment for which a license
4 application has been made prior to the issuance of the license.

5 (b) The board shall maintain a program of random and targeted
6 inspections of establishments to ensure compliance with
7 applicable laws relating to the public health and safety and the
8 conduct and operation of establishments.

9 (c) The board or its authorized representatives shall inspect
10 establishments to reasonably determine compliance levels and to
11 identify market conditions that require targeted enforcement.

12 (d) The board shall not reduce the number of employees
13 assigned to perform random inspections, targeted inspections, and
14 investigations relating to field operations below the level funded
15 by the annual Budget Act and described in supporting budget
16 documents, and shall not redirect funds or personnel-years
17 allocated to those inspection and investigation purposes to other
18 purposes.

19 SEC. 30. Section 7354 of the Business and Professions Code
20 is amended to read:

21 7354. For purposes of this article, “mobile unit” means any
22 self-contained, self-supporting, enclosed mobile unit which is at
23 least 24 feet in length which is licensed as an establishment for the
24 practice of any occupation licensed by the board and which
25 complies with this article and all health and safety regulations
26 established by the board.

27 SEC. 31. Section 7355 of the Business and Professions Code
28 is amended to read:

29 7355. (a) Any person, firm, or corporation desiring to
30 operate a mobile unit shall make an application to the board for a
31 license containing the information and data set forth in subdivision
32 (b). The applicant, if an individual, or each officer, director, and
33 partner, if the applicant is other than an individual, shall not have
34 committed acts or crimes which are grounds for denial of licensure
35 pursuant to Section 480. A license issued pursuant to this section
36 shall authorize the operation of the unit only within those
37 geographical boundaries designated by the board. Operation of the
38 unit outside of the geographical boundaries for which the license
39 is issued shall be unlawful, unless a license for the expanded

1 geographic area has been obtained upon compliance with this
2 article applicable to the issuance of a license in the first instance.

3 (b) Each application shall include the following:

4 (1) A detailed floor plan showing the location of doors,
5 windows, restroom facilities, sinks, lift or ramps, ventilation,
6 equipment, and dimensions of the mobile unit in compliance with
7 this article.

8 (2) Proof of purchase or lease of the mobile unit and shop
9 equipment.

10 (3) The required fee.

11 (4) Copies of applicable county and city licenses or permits to
12 provide the mobile barbering, cosmetology, or electrolysis
13 services in each county and city of operation and the locations
14 therein where the services will be offered.

15 (5) Proof of compliance with applicable city, county, and state
16 plumbing, electrical, and fire laws.

17 (6) Proof of a valid California driver's license issued to an
18 officer or employee responsible for driving the mobile unit.

19 (7) A permanent base address from which the mobile unit shall
20 operate.

21 (c) After initial approval of the floor plan and application has
22 been granted, the applicant shall schedule an appointment to show
23 the mobile unit to the board, or representative of the board, for
24 final approval.

25 SEC. 32. Section 7356 of the Business and Professions Code
26 is amended to read:

27 7356. An application to transfer ownership or control of an
28 existing licensed mobile unit shall be filed by the purchaser or
29 lessor with the board within 10 days after purchase. Each
30 application shall include the following:

31 (a) A detailed floor plan showing the location of doors,
32 windows, restroom facilities, sinks, lift or ramps, ventilation,
33 equipment, and dimensions of the mobile unit.

34 (b) Bills of sale or lease documents proving purchase or lease
35 of existing equipment and the mobile unit.

36 (c) The existing mobile unit license.

37 (d) The required fee.

38 (e) Copies of applicable city and county licenses or permits to
39 provide the mobile services in each county and city of operation
40 issued in the new owner's name.

1 (f) Proof of compliance with applicable city, county, and state
2 plumbing, electrical, and fire laws.

3 (g) Proof of a valid California driver's license issued to an
4 officer or employee responsible for driving the mobile unit.

5 SEC. 33. Section 7357 of the Business and Professions Code
6 is amended to read:

7 7357. (a) Mobile units shall comply with regulations adopted
8 by the board that assure that the unit shall be kept clean, in good
9 repair, and in compliance with this article.

10 (b) Each mobile unit shall be equipped with each of the
11 following functioning systems:

12 (1) A self-contained, potable water supply. The potable water
13 tanks shall be not less than 100 gallons, and the holding tanks shall
14 be of adequate capacity. In the event of depletion of potable water,
15 operation shall cease until the supply is replenished.

16 (2) Continuous, on-demand hot water tanks which shall be not
17 less than six-gallon capacity.

18 (3) A self-contained, recirculating, flush chemical toilet with
19 holding tank.

20 (4) A covered galvanized, stainless steel, or other noncorrosive
21 metal container for purposes of depositing hair clippings, refuse,
22 and other waste materials.

23 (5) A split-lead generator with a remote starter, muffler, and a
24 vent to the outside.

25 (6) A sealed combustible heater with an outside vent.

26 SEC. 34. Section 7359 of the Business and Professions Code
27 is amended to read:

28 7359. It is unlawful for any person, firm or corporation to hire,
29 employ, allow to be employed, or permit to work, in or about a
30 mobile unit, any person who performs or practices any occupation
31 regulated under this chapter who is not duly licensed by the board.

32 Any person violating this section is guilty of a misdemeanor.

33 SEC. 35. Section 7362 of the Business and Professions Code
34 is amended to read:

35 7362. (a) A school approved by the board is one which is
36 licensed by the Bureau for Private Postsecondary and Vocational
37 Education, or a public school in this state, and provides a course
38 of instruction approved by the board.

39 (b) The board shall determine by regulation the required
40 subjects of instruction to be completed in all approved courses,

1 including the minimum hours of technical instruction and
2 minimum number of practical operations for each subject, and
3 shall determine how much training is required before a student
4 may begin performing services on paying patrons.

5 SEC. 36. Section 7362.1 of the Business and Professions
6 Code is amended to read:

7 7362.1. A school of cosmetology approved by the board shall
8 also meet all of the following:

9 (a) Possess the equipment and floor space necessary for
10 comprehensive instruction of 25 cosmetology students or the
11 number of students enrolled in the course, whichever is greater.

12 (b) Have entered on the roll of a proposed school of
13 cosmetology at least 25 bona fide, full-time students for the
14 cosmetology course. For purposes of this section, a bona fide,
15 full-time student is a person who has been entered on the roll of a
16 proposed school of cosmetology and has committed to attend a full
17 course in cosmetology.

18 (c) Maintain a course of practical training and technical
19 instruction for the full cosmetology course as specified in this
20 chapter and in board regulations. A course of instruction in any
21 branch of cosmetology shall be taught in a school of cosmetology.

22 SEC. 37. Section 7362.2 of the Business and Professions
23 Code is amended to read:

24 7362.2. A school of barbering approved by the board shall
25 also do all of the following:

26 (a) Possess the equipment and floor space necessary for
27 comprehensive instruction of 15 barber students or the number of
28 students enrolled in the course, whichever is greater.

29 (b) Have entered on the roll of a proposed school of barbering
30 at least 15 bona fide, full-time students for the barbering course.
31 For purposes of this section, a bona fide, full-time student is a
32 person who has been entered on the roll of a proposed school of
33 barbering and has committed to attend a full course in barbering.

34 (c) Maintain a course of practical training and technical
35 instruction for the full barbering course as specified in this chapter
36 and in board regulations.

37 SEC. 38. Section 7362.3 of the Business and Professions
38 Code is amended to read:

39 7362.3. A school of electrology approved by the board shall
40 also do all of the following:

1 (a) Possess the equipment and floor space necessary for
2 comprehensive instruction of five electrology students or the
3 number of students enrolled in the course, whichever is greater.

4 (b) Have entered on the roll of a proposed school of electrology
5 at least five bona fide, full-time students for the electrology course.
6 For purposes of this section, a bona fide, full-time student is a
7 person who has been entered on the roll of a proposed school of
8 electrology and has committed to attend a full course in
9 electrology.

10 (c) Maintain a course of practical training and technical
11 instruction for the full electrology course as specified in this
12 chapter and in board regulations.

13 SEC. 39. Section 7364 of the Business and Professions Code
14 is amended to read:

15 7364. A skin care course established by a school shall consist
16 of not less than 600 hours of practical training and technical
17 instruction in accordance with a curriculum established by board
18 regulation.

19 SEC. 40. Section 7365 of the Business and Professions Code
20 is amended to read:

21 7365. A nail care course established by a school shall consist
22 of not less than 350 hours of practical training and technical
23 instruction in accordance with a curriculum established by board
24 regulation.

25 SEC. 41. Section 7366 of the Business and Professions Code
26 is amended to read:

27 7366. An electrolysis course established by a school shall
28 consist of not less than 600 hours of practical training and technical
29 instruction in accordance with a curriculum established by board
30 regulation.

31 SEC. 42. Section 7367 of the Business and Professions Code
32 is amended to read:

33 7367. For students who change from one program of
34 instruction to another, the board shall grant credit for training
35 obtained in one course that is identical to training required in
36 another course.

37 SEC. 43. Section 7389 of the Business and Professions Code
38 is amended to read:

39 7389. The board shall develop or adopt a health and safety
40 course on hazardous substances which shall be taught in schools



1 approved by the board. Course development shall include pilot
2 testing of the course and training classes to prepare instructors to
3 effectively use the course.

4 ~~SEC. 44. Section 7390 of the Business and Professions Code~~
5 ~~is repealed.~~

6 ~~SEC. 45. Section 7391 of the Business and Professions Code~~
7 ~~is repealed.~~

8 ~~SEC. 46. Section 7392 of the Business and Professions Code~~
9 ~~is repealed.~~

10 ~~SEC. 47. Section 7393 of the Business and Professions Code~~
11 ~~is repealed.~~

12 ~~SEC. 48. Section 7394 of the Business and Professions Code~~
13 ~~is repealed.~~

14 ~~SEC. 49. Section 7395 of the Business and Professions Code~~
15 ~~is repealed.~~

16 *SEC. 44. Section 7390 of the Business and Professions Code*
17 *is amended to read:*

18 7390. (a) A cosmetology or barbering instructor training
19 course shall consist of not less than 600 hours of practical training
20 and technical instruction in accordance with a curriculum
21 established by ~~bureau~~ board regulation.

22 (b) *This section shall remain in effect only until January 1,*
23 *2005, and as of that date is repealed, unless a later enacted statute,*
24 *that is enacted before January 1, 2005, deletes or extends that date.*

25 *SEC. 45. Section 7391 of the Business and Professions Code*
26 *is amended to read:*

27 7391. (a) The ~~bureau~~ board shall admit to examination for
28 license as a cosmetology or barbering instructor any person who
29 has made application to the ~~bureau~~ board in the proper form, who
30 has paid the fee required by this chapter, and who meets the
31 following qualifications:

32 ~~(a)~~

33 (1) Has completed the 12th grade or an accredited senior high
34 school course of study in public schools of this state or its
35 equivalent.

36 ~~(b)~~

37 (2) Is not subject to denial pursuant to Section 480.

38 ~~(c)~~

39 (3) Holds a valid license to practice cosmetology or barbering
40 in this state.

1 ~~(d)~~

2 (4) Has done at least one of the following:

3 ~~(1)~~

4 (A) Completed a cosmetology or barbering instructor training
5 course in an approved school in this state or equivalent training in
6 an approved school in another state.

7 ~~(2)~~

8 (B) Completed not less than the equivalent of 10 months of
9 practice as a teacher assistant or teacher aide in a school approved
10 by the ~~bureau~~ board.

11 ~~(3)~~

12 (C) Practiced cosmetology or barbering in a licensed
13 establishment in this state for a period of one year within the three
14 years immediately preceding application, or its equivalent in
15 another state. An applicant using practical experience to qualify
16 under this section shall submit an affidavit signed by his or her
17 employers attesting to the qualifying experience.

18 **(b) This section shall remain in effect only until January 1,**
19 **2005, and as of that date is repealed, unless a later enacted statute,**
20 **that is enacted before January 1, 2005, deletes or extends that date.**

21 SEC. 46. Section 7392 of the Business and Professions Code
22 is amended to read:

23 7392. (a) Each licensed instructor shall complete at least 30
24 clock hours of continuing education in the teaching of vocational
25 education during each two-year licensing period. This section does
26 not apply to an instructor who holds a credential to teach
27 vocational education full time in a public school in this state.

28 (b) For purposes of this section, programs designed for
29 continuing education in the teaching of vocational education may
30 include, but not be limited to, development of understanding and
31 competency in the learning process, instructional techniques,
32 curriculum and media, instructional evaluation, counseling and
33 guidance, and the special needs of students.

34 (c) The ~~bureau~~ board shall adopt regulations establishing
35 standards for the approval of continuing education courses and for
36 the effective administration and enforcement of its continuing
37 education requirements.

38 **(d) This section shall remain in effect only until January 1,**
39 **2005, and as of that date is repealed, unless a later enacted statute,**
40 **that is enacted before January 1, 2005, deletes or extends that date.**

1 *SEC. 47. Section 7393 of the Business and Professions Code*
2 *is amended to read:*

3 7393. (a) As a condition of the renewal of the license of an
4 instructor, the ~~bureau~~ board may periodically require instructors
5 to demonstrate current competence through continuing education
6 as provided for in this chapter.

7 (b) *This section shall remain in effect only until January 1,*
8 *2005, and as of that date is repealed, unless a later enacted statute,*
9 *that is enacted before January 1, 2005, deletes or extends that date.*

10 *SEC. 48. Section 7394 of the Business and Professions Code*
11 *is amended to read:*

12 7394. (a) The ~~bureau's~~ board's continuing education
13 requirements shall not apply to instructors whose licenses are on
14 inactive status according to the records maintained by the ~~bureau~~
15 board.

16 (b) Instructors whose licenses are on inactive status may not be
17 employed as instructors in schools approved by the ~~bureau~~ board.

18 (c) Instructors whose licenses are on inactive status must
19 complete at least 30 hours of continuing education in the teaching
20 of vocational education as a condition of reinstatement to active
21 status.

22 (d) *This section shall remain in effect only until January 1,*
23 *2005, and as of that date is repealed, unless a later enacted statute,*
24 *that is enacted before January 1, 2005, deletes or extends that date.*

25 *SEC. 49. Section 7395 of the Business and Professions Code*
26 *is amended to read:*

27 7395. (a) If an instructor with an active license status does
28 not provide proof of compliance with the continuing education
29 requirements provided for in this chapter within 45 days of a
30 request from the ~~bureau~~ board, the instructor's license shall revert
31 to inactive status until proof of compliance is provided to the
32 ~~bureau~~ board.

33 (b) *This section shall remain in effect only until January 1,*
34 *2005, and as of that date is repealed, unless a later enacted statute,*
35 *that is enacted before January 1, 2005, deletes or extends that date.*

36 *SEC. 50. Section 7395.1 of the Business and Professions*
37 *Code is amended to read:*

38 7395.1. (a) A student who is enrolled in a school of
39 cosmetology approved by the Bureau for Private Postsecondary
40 and Vocational Education in a course approved by the board may,

1 upon completion of a minimum of 60 percent of the clock hours
2 required for graduation in the course, work as an unpaid extern in
3 a cosmetology establishment participating in the educational
4 program of the school of cosmetology.

5 (b) A person working as an extern shall receive clock hour
6 credit toward graduation, but that credit shall not exceed eight
7 hours per week and shall not exceed 10 percent of the total clock
8 hours required for completion of the course.

9 (c) The externship program shall be conducted in cosmetology
10 establishments meeting all of the following criteria:

11 (1) The establishment is licensed by the board.

12 (2) The establishment has a minimum of four licensees
13 working at the establishment, including employees and owners or
14 managers.

15 (3) All licensees at the establishment are in good standing with
16 the board.

17 (4) Licensees working at the establishment work for salaries or
18 commissions rather than on a space rental basis.

19 (5) No more than one extern shall work in an establishment for
20 every four licensees working in the establishment. No regularly
21 employed licensee shall be displaced or have his or her work hours
22 reduced or altered to accommodate the placement of an extern in
23 an establishment. Prior to placement of the extern, the
24 establishment shall agree in writing sent to the school and to all
25 affected licensees that no reduction or alteration of any licensee's
26 current work schedule shall occur. This shall not prevent a licensee
27 from voluntarily reducing or altering his or her work schedule.

28 (6) Externs shall wear conspicuous school identification at all
29 times while working in the establishment, and shall carry a school
30 laminated identification, that includes a picture, in a form
31 approved by the board.

32 (d) (1) A school participating in the externship program shall
33 provide the participating establishment and the extern with a
34 syllabus containing applicable information specified in Section
35 73880 of Title 5 of the California Code of Regulations. The extern,
36 the school, and the establishment shall agree to the terms of and
37 sign the syllabus prior to the extern beginning work at the
38 establishment. No less than 90 percent of the responsibilities and
39 duties of the extern shall consist of the acts included within the
40 practice of cosmetology as defined in Section 7316.

1 (2) The establishment shall consult with the assigning school
2 regarding the extern's progress during the unpaid externship. The
3 owner or manager of the establishment shall monitor and report on
4 the student's progress to the school on a regular basis, with
5 assistance from supervising licensees.

6 (3) A participating school shall assess the extern's learning
7 outcome from the externship program. The school shall maintain
8 accurate records of the extern's educational experience in the
9 externship program and records that indicate how the extern's
10 learning outcome translates into course credit.

11 (e) Participation in an externship program made available by a
12 school shall be voluntary, may be terminated by the student at any
13 time, and shall not be a prerequisite for graduation.

14 (f) The cosmetology establishment that chooses to utilize the
15 extern is liable for the extern's general liability insurance, as well
16 as cosmetology malpractice liability insurance, and shall furnish
17 proof to the participating school that the establishment is covered
18 by both forms of liability insurance and that the extern is covered
19 under that insurance.

20 (g) (1) It is the purpose of the externship program authorized
21 by this section to provide students with skills, knowledge, and
22 attitudes necessary to acquire employment in the field for which
23 they are being trained, and to extend formalized classroom
24 instruction.

25 (2) Instruction shall be based on skills, knowledge, attitudes,
26 and performance levels in the area of cosmetology for which the
27 instruction is conducted.

28 (3) An extern may perform only acts listed within the definition
29 of the practice of cosmetology as provided in Section 7316, if a
30 licensee directly supervises those acts, except that an extern may
31 not use or apply chemical treatments unless the extern has received
32 appropriate training in application of those treatments from an
33 approved cosmetology school. An extern may work on a paying
34 client only in an assisting capacity and only with the direct and
35 immediate supervision of a licensee.

36 (4) The extern shall not perform any work in a manner that
37 would violate law.

38 SEC. 51. Section 7396 of the Business and Professions Code
39 is amended to read:

1 7396. The form and content of a license issued by the board
2 shall be determined in accordance with Section 164.

3 The license shall prominently state that the holder is licensed as
4 a barber, cosmetologist, esthetician, manicurist, electrologist, or
5 apprentice, and shall contain a photograph of the licensee.

6 SEC. 52. Section 7400 of the Business and Professions Code
7 is amended to read:

8 7400. Every licensee of the board, except establishments
9 shall, within 30 days after a change of address, notify the board of
10 the new address, and, upon receipt of the notification, the board
11 shall make the necessary changes in the register.

12 SEC. 53. Section 7401 of the Business and Professions Code
13 is amended to read:

14 7401. (a) An individual licensed pursuant to Section 7396
15 shall report to the board at the time of license renewal, his or her
16 practice status, designated as one of the following:

17 (1) Full-time practice in California.

18 (2) Full-time practice outside of California.

19 (3) Part-time practice in California.

20 (4) Not working in the industry.

21 (5) Retired.

22 (6) Other practice status, as may be further defined by the
23 board.

24 (b) An individual licensed pursuant to Section 7396 shall, at the
25 time of license renewal, identify himself or herself on the
26 application as one of the following:

27 (1) Employee.

28 (2) Independent contractor or booth renter.

29 (3) Salon owner.

30 (c) An individual licensed pursuant to Section 7347 shall report
31 to the board at the time of license renewal, whether either of the
32 following is applicable to him or her:

33 (1) He or she has a booth renter operating in the establishment.

34 (2) He or she has an independent contractor operating in the
35 establishment.

36 (d) The board shall report to the Senate Committee on Business
37 and Professions and the Assembly Committee on Business and
38 Professions within five years after the implementation of the
39 provisions of this section on the licensee information collected,
40 including an assessment of whether a certain type of licensee is

1 more likely to receive complaints or citations, or to fail to pay
2 taxes, and any recommendation on how to remedy problems
3 found.

4 SEC. 54. Section 7403 of the Business and Professions Code
5 is amended to read:

6 7403. (a) The board may revoke, suspend, or deny at any
7 time any license required by this chapter on any of the grounds for
8 disciplinary action provided in this article. The proceedings under
9 this article shall be conducted in accordance with Chapter 5
10 (commencing with Section 11500) of Part 1 of Division 3 of Title
11 2 of the Government Code, and the board shall have all the powers
12 granted therein.

13 (b) In any case in which the administrative law judge
14 recommends that the board revoke, suspend or deny a license, the
15 administrative law judge may, upon presentation of suitable proof,
16 order the licensee to pay the board the reasonable costs of the
17 investigation and adjudication of the case. For purposes of this
18 section, “costs” include charges by the board for investigating the
19 case, charges incurred by the office of the Attorney General for
20 investigating and presenting the case, and charges incurred by the
21 Office of Administrative Hearings for hearing the case and issuing
22 a proposed decision.

23 (c) The costs to be assessed shall be fixed by the administrative
24 law judge and shall not, in any event, be increased by the board.
25 When the board does not adopt a proposed decision and remands
26 the case to an administrative law judge, the administrative law
27 judge shall not increase the amount of any costs assessed in the
28 proposed decision.

29 (d) The board may enforce the order for payment in the
30 superior court in the county where the administrative hearing was
31 held. This right of enforcement shall be in addition to any other
32 rights the board may have as to any licensee directed to pay costs.

33 (e) In any judicial action for the recovery of costs, proof of the
34 board’s decision shall be conclusive proof of the validity of the
35 order of payment and the terms for payment.

36 (f) Notwithstanding any other provision of law, all costs
37 recovered under this section shall be deposited in the board’s
38 contingent fund as a scheduled reimbursement in the fiscal year in
39 which the costs are actually recovered.

1 SEC. 55. Section 7403.5 is added to the Business and
2 Professions Code, to read:

3 7403.5. (a) In addition to the authority provided by Sections
4 494 and 7403, the executive officer, in his or her discretion, may
5 upon written notice immediately close any establishment which,
6 upon completion of an inspection, is found to have health and
7 safety violations of such a severe nature as to pose an immediate
8 threat to public health and safety.

9 (b) The executive officer shall issue a written notice of
10 suspension of the establishment license including the grounds
11 therefor and a notice of closure. The notice of closure shall be
12 posted at the establishment so as to be clearly visible to the general
13 public and to patrons.

14 (c) Upon issuance of the written notice of suspension of the
15 establishment license, the establishment shall immediately close
16 to the general public and to patrons and shall discontinue all
17 operations until the suspension has been vacated by the executive
18 officer, the suspension expires, is superseded by an order issued
19 under the authority of Section 494, or until the establishment no
20 longer operates under this chapter.

21 (d) (1) Before issuing a suspension order under this section,
22 the executive officer shall, if practical, give the establishment
23 notice and an opportunity to be heard. If no hearing is provided
24 prior to the issuance of the suspension order, the establishment
25 may request one after the suspension has been issued.

26 (2) Notice and hearing under this section may be oral or
27 written, including notice and hearing by telephone, facsimile
28 transmission, or other electronic means as the circumstances
29 permit.

30 (e) Upon correction of violations the establishment may
31 request that the written notice of suspension be terminated. The
32 executive officer shall conduct an inspection within 48 hours to
33 determine whether the written notice of suspension may be
34 terminated. If the written notice of suspension is not terminated
35 upon inspection for failure of the establishment to correct
36 violations, a charge of one hundred dollars (\$100) shall be imposed
37 for each subsequent inspection under this section.

38 (f) The notice of suspension shall remain posted until removed
39 by the executive officer, but shall be in effect for no longer than 30
40 days. Removal of the notice of suspension by any person other than



1 the executive officer or designated representative, or the refusal of
2 an establishment to close upon issuance of the written notice of
3 suspension of the establishment license is a violation of this
4 chapter and may result in any sanctions authorized by this chapter.

5 SEC. 56. Section 7404 of the Business and Professions Code
6 is amended to read:

7 7404. The grounds for disciplinary action are as follows:

8 (a) Unprofessional conduct which includes, but is not limited
9 to, any of the following:

10 (1) Incompetence or gross negligence, including failure to
11 comply with generally accepted standards for the practice of
12 barbering, cosmetology, or electrology or disregard for the health
13 and safety of patrons.

14 (2) Repeated similar negligent acts.

15 (3) Conviction of any crime substantially related to the
16 qualifications, functions, or duties of the licenseholder, in which
17 case, the records of conviction or a certified copy shall be
18 conclusive evidence thereof.

19 (4) Advertising by means of knowingly false or deceptive
20 statements.

21 (b) Failure to comply with the requirements of this chapter.

22 (c) Failure to comply with the rules governing health and safety
23 adopted by the board and approved by the State Department of
24 Health Services, for the regulation of establishments, or any
25 practice licensed and regulated under this chapter.

26 (d) Failure to comply with the rules adopted by the board for
27 the regulation of establishments, or any practice licensed and
28 regulated under this chapter.

29 (e) Continued practice by a person knowingly having an
30 infectious or contagious disease.

31 (f) Habitual drunkenness, habitual use of or addiction to the use
32 of any controlled substance.

33 (g) Obtaining or attempting to obtain practice in any
34 occupation licensed and regulated under this chapter, or money, or
35 compensation in any form, by fraudulent misrepresentation.

36 (h) Failure to display the license or health and safety rules and
37 regulations in a conspicuous place.

38 (i) Engaging, outside of a licensed establishment and for
39 compensation in any form whatever, in any practice for which a
40 license is required under this chapter, except that when the service

1 is provided because of illness or other physical or mental
2 incapacitation of the recipient of the service and when performed
3 by a licensee obtained for the purpose from a licensed
4 establishment.

5 (j) Permitting a license to be used where the holder is not
6 personally, actively, and continuously engaged in business.

7 (k) The making of any false statement as to a material matter
8 in any oath or affidavit, which is required by the provisions of this
9 chapter.

10 (l) Refusal to permit or interference with an inspection
11 authorized under this chapter.

12 (m) Any action or conduct which would have warranted the
13 denial of a license.

14 (n) Failure to surrender a license that was issued in error or by
15 mistake.

16 SEC. 57. Section 7405 of the Business and Professions Code
17 is amended to read:

18 7405. A plea or verdict of guilty or a conviction following a
19 plea of nolo contendere is deemed to be a conviction within the
20 meaning of this article. The board may order the license suspended
21 or revoked, or may decline to issue a license, when the time for
22 appeal has elapsed, or the judgment of conviction has been
23 affirmed on appeal or when an order granting probation is made
24 suspending the imposition of sentence, irrespective of a
25 subsequent order under Section 1203.4 of the Penal Code allowing
26 the person to withdraw his or her plea of guilty and to enter a plea
27 of not guilty, or setting aside the verdict of guilty, or dismissing the
28 accusation, information or indictment.

29 SEC. 58. Section 7406 of the Business and Professions Code
30 is amended to read:

31 7406. In addition to the authority to conduct disciplinary
32 proceedings under this chapter, the board, through its duly
33 authorized representatives, shall have authority to assess
34 administrative fines for the violation of any section of this chapter
35 or the violation of any rules and regulations adopted by the board
36 under this chapter.

37 SEC. 59. Section 7407 of the Business and Professions Code
38 is amended to read:

39 7407. The board shall establish by regulation a schedule of
40 administrative fines for violations of this chapter. All moneys

1 collected under this section shall be deposited in the board's
2 contingent fund.

3 The schedule shall indicate for each type of violation whether,
4 in the board's discretion, the violation can be corrected. The board
5 shall review and revise the schedule of administrative fines for
6 violations by January 1, 2005. The board shall ensure that it and
7 the Bureau for Private Postsecondary and Vocational Education do
8 not issue citations for the same violation.

9 SEC. 60. Section 7408 of the Business and Professions Code
10 is amended to read:

11 7408. The board, through its duly authorized representatives,
12 shall issue a citation with respect to any violation for which an
13 administrative fine may be assessed. Each citation shall be in
14 writing and shall describe with particularity the nature of the
15 violation, including a reference to the specific provision alleged to
16 have been violated. The administrative fine, if any, shall attach at
17 the time the citation is written. The citation shall include an order
18 to correct any condition or violation which lends itself to
19 correction, as determined by the board pursuant to Section 7406.

20 SEC. 61. Section 7409 of the Business and Professions Code
21 is amended to read:

22 7409. Any licensee served with a citation may avoid the
23 payment of the associated administrative fine by presentation of
24 written proof satisfactory to the board, or its executive officer, that
25 the violation has been corrected. This provision applies only to a
26 licensee's first violation in any three-year period of any single
27 provision of this chapter or the rules and regulations adopted
28 pursuant to this chapter. Proof of correction shall be presented to
29 the board, through its executive officer, in a time and manner
30 prescribed by the board. The board may, in its discretion, extend
31 for a reasonable period the time within which to correct the
32 violation upon the showing of good cause. Notices of correction
33 filed after the prescribed date shall not be acceptable and the
34 administrative fine shall be paid.

35 SEC. 62. Section 7410 of the Business and Professions Code
36 is amended to read:

37 7410. Persons to whom a notice of violation or a citation is
38 issued and an administrative fine assessed may appeal the citation
39 to a disciplinary review committee established by the board. All
40 appeals shall be submitted in writing to the program within 30 days

1 of the date the citation was issued. Appeals of citations that are not
2 submitted in a timely manner shall be rejected.

3 After a timely appeal has been filed with the program, the
4 administrative fine, if any, shall be stayed until the appeal has been
5 adjudicated.

6 Persons appealing a citation, or their appointed representatives,
7 shall appear in person before the disciplinary review committee.
8 The appellant may present written or oral evidence relating to the
9 facts and circumstances relating to the citation that was issued.
10 Following an appeal before a disciplinary review committee, the
11 disciplinary review committee shall issue a decision, based on
12 findings of fact, which may affirm, reduce, dismiss, or alter any
13 charges filed in the citation. In no event shall the administrative
14 fine be increased. The appellant shall be provided with a written
15 copy of the disciplinary review committee's decision relating to
16 the appeal.

17 SEC. 63. Section 7414.1 of the Business and Professions
18 Code is amended to read:

19 7414.1. All records required by law to be kept by tanning
20 facilities subject to the Filante Tanning Facility Act of 1988
21 (Chapter 23 (commencing with Section 22700) of Division 8),
22 including, but not limited to, records relating to written warning
23 statements, the sign required to be posted, the qualifications of
24 facility operators, statements of acknowledgment, parental
25 consent forms, and injury reports, shall be open to inspection by
26 the board, or its authorized representatives, during any inspection,
27 or during any investigation initiated in response to a complaint that
28 the tanning facility has violated any provision of the Filante
29 Tanning Facility Act of 1988. A copy of any or all of those records
30 shall be provided to the board, or its authorized representatives,
31 immediately upon request.

32 SEC. 64. Section 7414.3 of the Business and Professions
33 Code is amended to read:

34 7414.3. (a) Any representative of the board designated by the
35 director shall have the authority to issue a written notice to appear
36 in court pursuant to Chapter 5c (commencing with Section 853.5)
37 of Title 3 of Part 2 of the Penal Code. Representatives so
38 designated are not peace officers and are not entitled to safety
39 member retirement benefits, as a result of that designation. Except
40 as otherwise provided, the representative's authority is limited to



1 the issuance of written notices to appear for infraction violations
2 of the Filante Tanning Facility Act of 1988 and only when the
3 violation is committed in the presence of the representative.

4 (b) There shall be no civil liability on the part of, and no cause
5 of action shall arise against, any representative, acting pursuant to
6 subdivision (a) and within the scope of his or her authority, for
7 false arrest or false imprisonment arising out of any arrest which
8 is lawful or which the representative, at the time of that arrest, had
9 reasonable cause to believe was lawful.

10 (c) This section shall become effective July 1, 1994.

11 SEC. 65. Section 7414.4 of the Business and Professions
12 Code is amended to read:

13 7414.4. The board, and its authorized representatives, may
14 disseminate information to tanning facilities regarding
15 compliance with the Filante Tanning Facility Act of 1988.

16 SEC. 66. Section 7414.6 of the Business and Professions
17 Code is amended to read:

18 7414.6. The board may adopt regulations concerning the
19 operation of tanning facilities in licensed establishments.

20 SEC. 67. Section 7415 of the Business and Professions Code
21 is amended to read:

22 7415. Licenses issued under this chapter, unless specifically
23 excepted, shall be issued for a two-year period and shall expire at
24 midnight on the last day of the month of issuance by the board.

25 SEC. 68. Section 7416 of the Business and Professions Code
26 is repealed.

27 SEC. 69. Section 7421 of the Business and Professions Code
28 is amended to read:

29 7421. The fees shall be set by the board, within the limits set
30 forth in this article, in amounts necessary to cover the expenses of
31 the board in performing its duties under this chapter.

32 SEC. 70. Section 7422 of the Business and Professions Code
33 is amended to read:

34 7422. All fees collected on behalf of the board and all receipts
35 of every kind and nature, shall be reported to the Controller at the
36 beginning of each month for the month preceding. At the same
37 time the entire amount of collections shall be paid into the State
38 Treasury, and shall be credited to the Barbering and Cosmetology
39 Contingent Fund, which fund is hereby created.

1 The moneys in the contingent fund shall be appropriated to the
2 board pursuant to the annual Budget Act and out of it shall be paid
3 all salaries and all other expenses necessarily incurred in carrying
4 into effect this chapter.

5 SEC. 71. Section 7423 of the Business and Professions Code
6 is repealed.

7 SEC. 72. Section 7423 is added to the Business and
8 Professions Code, to read:

9 7423. The amounts of the fees required by this chapter
10 relating to licenses for individual practitioners are as follows:

11 (a) (1) Cosmetologist application and examination fee shall be
12 the actual cost to the board for developing, purchasing, grading,
13 and administering the examination.

14 (2) A cosmetologist initial license fee shall not be more than
15 fifty dollars (\$50).

16 (b) (1) An esthetician application and examination fee shall be
17 the actual cost to the board for developing, purchasing, grading,
18 and administering the examination.

19 (2) An esthetician initial license fee shall not be more than forty
20 dollars (\$40).

21 (c) (1) A manicurist application and examination fee shall be
22 the actual cost to the board for developing, purchasing, grading,
23 and administering the examination.

24 (2) A manicurist initial license fee shall not be more than
25 thirty-five dollars (\$35).

26 (d) (1) A barber application and examination fee shall be the
27 actual cost to the board for developing, purchasing, grading, and
28 administering the examination.

29 (2) A barber initial license fee shall be not more than fifty
30 dollars (\$50).

31 (e) (1) ~~A~~ An electrologist application and examination fee
32 shall be the actual cost to the board for developing, purchasing,
33 grading, and administering the examination.

34 (2) An electrologist initial license fee shall be not more than
35 fifty dollars (\$50).

36 (f) An apprentice application and license fee shall be not more
37 than twenty-five dollars (\$25).

38 (g) The license renewal fee for individual practitioner licenses
39 that are subject to renewal shall be not more than fifty dollars
40 (\$50).

1 (h) Notwithstanding Section 163.5 the license renewal
2 delinquency fee shall be 50 percent of the renewal fee in effect on
3 the date of renewal.

4 (i) Any preapplication fee shall be established by the board in
5 an amount sufficient to cover the costs of processing and
6 administration of the preapplication.

7 SEC. 73. Section 7423.5 of the Business and Professions
8 Code is repealed.

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